

Rev. 3/19

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Justin Davey
Plaintiff's full name and prisoner number

Plaintiff,

v.

Case No. 3:21-cv-05068-JCC-SKV
(leave blank – for court staff only)

Pierce County Council et al

Second Amended Complaint
PRISONER CIVIL RIGHTS
COMPLAINT

Defendant's/defendants' full name(s)

Defendant(s).

Jury Demand?

☒ Yes
☐ No

(If you cannot fit all of the defendants' names in the space provided, please write "see attached" in the space above and attach additional sheets of paper, as necessary, with the full list of names. The names listed here must be identical to those in Section II. Do not include addresses here. **Individuals whose names are not included in this section will not be considered defendants in this action.**)

See attached
Documents in this
PDF Format

WARNINGS

1. Do not use this form if you are challenging the validity of your criminal conviction or your criminal sentence. If you are challenging your conviction or sentence, or if you are seeking restoration of good-time credits that would shorten your sentence, you must file a Petition for Writ of Habeas Corpus. If you use this form to challenge your conviction or sentence, you risk having your claim dismissed. Separate forms are available for filing a habeas petition.

2. Under the Prison Litigation Reform Act ("PLRA"), you are required to exhaust all remedies in your institution's grievance system that are available to you before filing suit. This generally means that you must file a grievance and, if it is denied, appeal it through all available levels of review. Your case may be dismissed if you fail to exhaust administrative remedies, unless the administrative grievance process was not "available" to you within the meaning of the PLRA. You are not required to plead or show that you have exhausted your claim in this complaint.

3. Please review your complaint carefully before filing. If your case is dismissed, it may affect your ability to file future civil actions while incarcerated without prepaying the full filing fee. Under the PLRA, a prisoner who has had three or more civil actions or appeals dismissed as frivolous, malicious, or for failure to state a claim cannot file a new action without first paying the full filing fee, unless the prisoner is in imminent danger of serious bodily injury.

4. Under Federal Rule of Civil Procedure 5.2, papers filed with the court, including exhibits or attachments to a complaint, may not contain certain information, which must be modified as follows:

Do not include:

- a full social security number
- a full birth date
- the full name of a minor
- a complete financial account number

Instead, use:

- the last four digits
- the birth year
- the minor's initials
- the last four digits

5. You may, but do not need to, send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint. Any documents you submit *must relate directly to the claims you raise in this lawsuit*. They will become part of the court record and *will not be returned to you*.

I. PLAINTIFF INFORMATION

Please Refer to following Documents

Name (Last, First, MI) Justin Davey	Aliases/Formal Names
Davey, Justin Allen	<i>Plaintiff currently resides at:</i> 13602 Golden Given Rd. E Tacoma, wa 98445
Prisoner ID #	
Pierce County Jail	
Place of Detention	
910 Tacoma Ave S.	
Institutional Address	
Pierce Tacoma WA	98402
County, City	State Zip Code

Indicate your status:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Pretrial detainee | <input checked="" type="checkbox"/> Convicted and sentenced state prisoner |
| <input checked="" type="checkbox"/> Civilly committed detainee | <input type="checkbox"/> Convicted and sentenced federal prisoner |
| <input type="checkbox"/> Immigration detainee | |

II. DEFENDANT INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint. Make sure that the defendant(s) listed below are identical to those contained in the caption on the first page of the complaint. Attach additional sheets of paper as necessary.

Defendant 1:

Please Refer to following Documents

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

Defendant 2:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

Defendant 3:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

III. STATEMENT OF CLAIM(S)

In this section, you must explain what you believe each defendant did to violate your civil rights, and if you know, identify the federal statutory or constitutional right you believe was violated.

If you believe the defendant(s) violated your civil rights in more than one way, explain each violation under a different count. For example, if you believe you received constitutionally inadequate medical care and your religious rights were substantially burdened, include one claim under "Count I" (i.e., medical) and the other claim under "Count II" (i.e., religion).

Number your paragraphs. For example, in Count I, paragraphs should be numbered 1.1, 1.2, 1.3, etc., and in Count II, paragraphs should be numbered 2.1, 2.2, 2.3, etc. The first two paragraphs of each Count have been numbered for you.

If you have more than three counts, attach additional pages and follow the same format for each count.

If you attach documents to support the facts of your claim(s), you must specify which portion of the document(s) (i.e., page and paragraph) you are relying on to support the specific fact(s) of your claim(s). If you do not specify the portion of the supporting document(s), the Court may disregard your document(s).

COUNT I

Identify the first right you believe was violated and by whom:

1.1 See attached Document 5

State the facts of your first claim below. Include all the facts you consider important. Be specific about dates, times, locations, and the names of the people involved. Describe exactly what each specific defendant did or failed to do that caused you injury or violated your rights, and include any other facts that show why you believe what happened was wrong. If you need additional space, you may attach extra sheets.

1.2 See attached

IV. RELIEF

State exactly what you want the Court to do for you. For example, you may be seeking money damages from an individual defendant, you may want the Court to order a defendant to do something or to stop doing something, or you may want both kinds of relief. Make no legal arguments. Cite no cases or statutes.

See attached.

V. SIGNATURE

By signing this complaint, you represent to the Court that you believe the facts alleged to be true to the best of your knowledge, that you believe those facts show a violation of law, and that you are not filing this complaint to harass another person or for any other improper purpose.

12-20-21
Dated

Barney Tustin
Plaintiff's Signature

U.S. District Judge
John C. Coughenour
U.S. Magistrate Judge
S.Kate Vaughan

United States District Court
For The District of Washington
At Seattle

Justin Allen Davey

Plaintiff

NO. 3:21-cv-05068-JCC-SKV

Second Amended

VS.

Complaint

Pierce County Council Et Al

Defendants

I. Jurisdiction & Venue

1) This is a Civil Action authorized by 42 U.S.C. Section 1983 to Redress the Deprivation, Under Color of State Law, of Rights secured by the Constitution of the United States. The Court has Jurisdiction under U.S.C. Section 1331 and 1343(a)(3). Plaintiff seeks Declaratory relief Pursuant to 28 U.S.C. Section 2201 and 2202.

The Western District of Washington is the appropriate Venue under 28 U.S.C. Section 1391(b)(2) because it is where the events giving rise to this claim occurred.

II. Plaintiff

2) Plaintiff Justin Davey is a Citizen of the United States, and a resident of the County of Pierce, State of Washington. Plaintiff Davey is an individual with a Mental Illness and suffers from several Psychological Disorders.

At all times relevant to this Complaint unless noted, Plaintiff Davey was a Pre-trial detainee at the Pierce County Jail "3 North A Mental Health Housing Unit."

Plaintiff also would like to note for the court that he was Civilly committed to undergo Restoration Services at a Certified State Hospital for the first part of his stay at Pierce County Jail. May 15th, 2020 to June 18th, 2020.

III. Defendants

3) Defendant Pierce County is a body politic and corporate, duly organized and existing under the Laws of the State of Washington, and pursuant to Law is Capable of being Sued in this Court. Defendant

Pierce County is responsible for the Policies, Practices and Customs of its Sheriff's Dept. as well as the hiring, training, supervision, control and discipline of its Deputy Sheriff's and Correction Officers. Pierce County is and was the employer of the Police Personnel named herein as individual defendants. Defendant Pierce County is also responsible for the Operations, Practices, and Totality of Conditions of its Jail Facility.

Pierce County Acts or Fails to Act through its Policy-Making officials, including but not limited to its County Council Members, the Chairman of the County Council and Judicial and Law Enforcement Committees, the Sheriff of Pierce County, and the Chief of the Internal Operations of the Sheriff Dept. Bureau.

The Acts and Edicts of these Policy-Making Officials represent also the Policies, Practices, and Customs of Pierce County.

1st. Defendant

Pierce County

Pierce County Council

930 Tacoma Ave S. 10th Floor Room 1046

Pierce, Tacoma, Washington, 98402

4) Defendant Ed Troyer is and was the Sheriff of Pierce County, and in that Capacity, is and was Responsible for establishing or Failing TO Establish the Policies, Practices, and Regulations for the conduct of the Pierce County Sheriff Department and its Employees.

Defendant Ed Troyer is and was Responsible for the hiring, training, supervision, discipline, and control of all members of the Pierce County Sheriff's department. Defendant County Sheriff is and was the Commanding Officer of the other Police personnel named herein as individual Defendants.

Defendant County Sheriff at all times herein, was acting in such a Capacity as the Agent, Servant and Employee of Pierce County.

Ed Troyer is Sued individually and in his Official Capacity.

Defendant County Sheriff has a Constitutional and Statutory responsibility for the Conditions and Practices of the Pierce County Jail Facility, and Defendant County Sheriff is responsible for maintaining the Jail facility in conformity with Constitutional requisites. Defendant County Sheriff is also the Custodian of the Jail Facility, responsible for the Neglect and Omission of the duties of all Deputy Sheriff's and Correction Officer's, and Charged with Furnishing necessary Sanitation, Bedding, Clothing, Medical Aid, and Mental Health Social Workers for all person's detained in the Jail Facility.

In addition, Defendant County Sheriff is and was responsible for ensuring that the Deputy Sheriff and Correction Officers of Pierce County Sheriff Dept. Obeyed regulations of the Pierce County Sheriff's Department, the Ordinance and Law of Pierce County, and the Laws and Constitution of the State of Washington and the United States.

Defendant County Sheriff is and was Responsible also for the Establishment, Policies, Procedures, and Guidelines for the Arrest, Jailing, and Safe Keeping of Pre-Trial detainees.

2nd. Defendant

Ed Troyer

County Sheriff

Pierce County Sheriff Dept.

910 Tacoma Ave. S

Pierce, Tacoma, Washington, 98402

5) Defendant, Patti Jackson is and was the Chief of the Internal Operation of the Sheriff Dept. Correction Bureau, and in that Capacity is and was Constitutionally and Statutorily Responsible also for the Training, Supervision, Discipline, and Control of all Deputy Correction Officers, as well as the Operation, Practices, and Totality of Conditions of the Pierce County Jail Facility.

Defendant Chief has Statutory Responsibility also for ensuring that the Pierce County Jail Facility conforms to the requirements of State Law, and the Laws and Constitution of the United States.

In addition, defendant Chief is and was Responsible for the establishment of Policies, Procedures, and Guidelines for the Arrest, Jailing, and Safe Keeping of Pre-Trial detainees housed in the Pierce County Jail Facility.

Defendant Chief, at all times was acting in such Capacity as the Agent, Servant and Employee of Pierce County.

Patti Jackson is Sued individually and in her Official Capacity.

3rd. Defendant

Patti Jackson

Chief Officer of the Correction Bureau

Pierce County Sheriff Dept.

910 Tacoma Ave S.

Pierce, Tacoma, Washington, 98402

6) Defendant B. Sutherlin is and was a Captain Deputy Correction Officer of the Pierce County Sheriff Dept., and at all times herein was acting in such Capacity as the Agent, Servant, and Employee of Pierce County.

B. Sutherlin is Sued Individually and in His Official Capacity.

4th. Defendant

B. Sutherlin

Captain Deputy Correction Officer

Pierce County Sheriff Dept.

910 Tacoma Ave S.

Pierce, Tacoma, Washington, 98402

7) Defendant Dobson is and was a Lieutenant Deputy Correction Officer of the Pierce County Sheriff Dept., and at all times herein was acting in such Capacity as the Agent, Servant, and Employee of Pierce County.

Dobson is sued Individually and in his Official Capacity.

5th. Defendant

Dobson

Lieutenant Deputy Correction Officer

Pierce County Sheriff Dept.

910 Tacoma Ave S.

Pierce, Tacoma, Washington, 98402

8) Defendant Mastandrea is and was a Sgt. Deputy Correction Officer of the Pierce County Sheriff Dept., and at all times herein was acting in such Capacity as the Agent, Servant, and Employee of Pierce County.

Mastandrea is sued Individually and in his Official Capacity.

6th. Defendant

Mastandrea

Sgt. Deputy Correction Officer

Pierce County Sheriff Dept.

910 Tacoma Ave S.

Pierce, Tacoma, Washington, 98402

9) Defendant D. Herbison is and was a Sgt. Deputy Correction Officer of the Pierce County Sheriff Dept., and at all times herein was acting in such Capacity as the Agent, Servant, and Employee of Pierce County.

D. Herbison is sued Individually and in his Official Capacity.

7th. Defendant

D. Herbison

Sgt. Deputy Correction Officer

Pierce County Sheriff Dept.

910 Tacoma Ave. S

Pierce, Tacoma, Washington, 98402

10) Defendant T. Pearson is and was a Deputy Correction Officer of the Pierce County Sheriff Dept., and at all times herein was acting in such a Capacity as the Agent, Servant, and Employee of Pierce County.

T. Pearson is sued Individually and in his Official Capacity.

8th. Defendant

T. Pearson

Deputy Correction Officer

Pierce County Sheriff Dept.

910 Tacoma Ave. S

Pierce, Tacoma, Washington, 98402

Count 1

1.1) Defendants Have Caused Plaintiff to be Subjected to a Deprivation of the Plaintiffs:

1. Fourteenth Amendment Right to Freedom from Pre-Trial Conditions Constituting Punishment and or Causing Suffering.
2. Fourteenth Amendment Right to Freedom from Pre-Trial Conviction Punishment without Due Process of Law.
3. Fourteenth Amendment Liberty Interest and Right in Bodily Safety in the circumstance peculiar to Plaintiffs Incarceration.
4. Fourteenth Amendment Liberty interest to Freedom from a deprivation of Life without Due Process of Law.
5. Fourteenth Amendment Liberty interest in an expectation of Minimal Standards for the Physical Conditions of the Jail Facility, and for Treatment with respect to Safety, Health, Wellbeing, and Security.
6. **Washington State Constitution Article I Section 2 and Section 3**

7. Eighth Amendment Prohibition Against Cruel and Unusual Punishment.
8. Negligence and Ministerial Negligence

Facts

1.2) On May 12th, 2020, Plaintiff Davey was Re-Classified from Level 2 Mental Health Housing Unit (3 North C) to Level 3 Mental Health Housing Unit (3 North A).

3 North A Unit is not a Solitary Confinement Housing unit where violent Criminals go for Disciplinary Action. The Unit is a place where Pierce County Places its most vulnerable Clients (the Mentally Ill), mostly those waiting for competency evaluations.

1.3) The Following Classification are those related to Pierce County Jail:

- Level 1 high
- Level 2 close custody
- Level 3 high medium
- Level 4 medium
- Level 5 medium presentence
- Level 6 minimum
- Level 7 low minimum
- Level 8 very low minimum

1.4) Plaintiff Davey was informed on May 12th, 2020, by Mental Health Social Workers, that his good behavior had resulted in the Jail Classifying him from level 2 Closed Custody to Level 3 High/Medium Custody. The move was supposed to be in some way a better living condition than those in closed custody.

1.5) Upon arriving in 3 North A (Mental Health Housing) Cell "20/21" I, Davey noticed that the Cell was in a very "Dangerous" Condition; There was dried Human Waste in and on the toilet seat, vomit, spit, dried mucus and food all over the floor.
The Stench of sitting urine and feces was extremely nauseating.

1.6) I was given a Spray bottle, but I was denied Proper P.P.E. (Gloves, Rags) and I was also denied a change of clothes when attempting to clean the "toilet" (with toilet paper) "bodily waste" splashed onto My Clothes. Having to use toilet paper to wipe the human waste from my toilet area without gloves caused me to get feces on my hands.

I was forced to wear clothes with Human Waste on them until the next Unit Clothing exchange, Thursday May 14th, 2020 (2 Days).

1.7) After falling asleep the night of May 12th, 2020, I woke up to Breakfast around 4:30AM on May 13th, 2020, and was given my meal through a slot in the Cell Door.

1.8) I noticed that the cell smelled of Urine and Feces and I also noticed that the toilet was once again full of wet and dried human waste and the surrounding area on the floor and wall had splashes of what appeared to be Human Waste from the toilet.
I immediately felt sick and could not eat My breakfast.

1.9) When officers returned to pick up the Breakfast tray I requested cleaning supplies, but I was denied, being told that, "Cleaning Supplies are not handed out during Grave-Yard hours." (I used my Pink Jail issued under garment T-Shirt to clean the area)

1.10) Later that morning, May 13th, 2020, I noticed that urine and feces, "Sewage" was Back-Filling into the cell "Davey's" toilet from the Cell next to mine and possibly from the floor above.

1.11) It seemed at the time that every time the adjoining cell flushed the toilet, Raw Sewage would Back-Up in the toilets, nearly overflowing our rims and splashing on the wall and floors. (This Happened 10-15 times daily)

1.12) At around 8:30 am on May 13th, 2020, (Formal Inspection Day) I had told the Captain and Lieutenant about the condition that my cell had been in when I was placed in the unit the day before, I also brought them into the cell and showed them that our bodily fluids were not leaving the unit but that when someone uses the restroom in the adjoining cell it would enter my toilet. They took notes and said they would call to check on the issue. (Apparently, they failed to check into the issue because Maintenance did not come)

1.13) "Formal Inspection," is a day in which Different ranking officers (Captain, Lieutenant, and Sgt.) will come to the unit to make sure that the Facility is Working, it is a day in which inmates of Pierce County Jail can verbally communicate direct problems with Higher Ranking Officers of Authority. "Formal Inspection," was a recurring day that happened every Three Weeks

1.14) The days went on with No Response from Officers about our Plumbing issue and Jail Cluster Officers would continue to deny me cleaning supplies, P.P.E. and proper tools to clean up after my cell toilet would Backflush, telling me that it was either not my turn to have cleaning supplies or that it was too late in requesting those supplies, leaving me to clean contaminated areas with my Jail issued under garment t-shirts and regular sink water. (This response happened nearly every day.)

1.16) I requested (To Mental Health Social Workers) to be moved to a different cell due to increased Psychological Problems that were occurring. Having to cope with Hallucinations, Anxiety, with the fear of Contracting a disease from the Sewer condition was extremely difficult. Mental Health Social Workers would typically Segue or Digress my complaints about the Sewer by saying it was just an old building, ignoring the conditions that we were forced to live in. (Social Workers would come in every Thursday to do checkups, yet every time us residents would complain about the issues they would change the topic, "Oh it's Just an Old Building.")

1.17) I was moved to Cell "25" on May 18th, 2020, where I was thrown into another "Dangerous" situation. The cell's toilet was completely saturated in feces and urine and the stench of the sitting Urine and Feces was repulsive. I was once again told by Officers that it was not my turn to receive Cleaning Supplies.

1.18) Having to constantly look at and deal with Raw Sewage and foul water without gloves and disinfectant was offensive and inhumane and I, as like always, I was forced to use my Jail issued T-Shirt and sink water to Clean the surrounding areas that were contaminated with the Human Waste.

1.17) I was placed in several different cells in 3 North A and experienced Constant Sewage Back-Up in every cell.

1.18) The situation that I and other Residents who have wrote Statements/Declarations, is a continual problem throughout 3North A Unit, every Cell toilet.

1.19) The toilets were not the only issue that was occurring in 3 North A Unit, the unit itself was saturated from the stench/fumes of Raw Sewage that expelled out of the 10 Sewage drainage pipes that were right next to the cell doors, causing residents including myself to constantly have headaches, vomit, diarrhea and not be able to eat. (The Stench of Raw Sewage occurred every day that plaintiff was housed in 3 north A unit to the point that Officers and Medical Staff and Mental Health Staff would make comments about it.)

1.20) On the next "Formal Inspection," June 3rd, 2020, I and several other residents asked the Ranking officers (Defendants Captain B. Sutherlin, Lieutenant Dobson, Deputy T. Pearson) about the Sewers.

1.21) I pleaded with Defendants named above to have someone fix the Plumbing, explaining to them that every time the cell that was connected to mine flushed the toilet their bodily waste would flow into my toilet, splashing everywhere and at times overflowing and I was left to clean the areas with a Jail issued t-shirt because Cluster Officers denied Me Cleaning Supplies during those times.

1.22) I also explained that nearly every night, when the residents including myself are sleeping, the toilets collected waste from those in neighboring cells and sometimes that waste overflows onto the cell floors, and that we were forced to eat in those conditions.

1.23) I also tried to explain to the Defendant named above that other resident's fecal matter and waste would rise up through the toilets and spout onto my buttocks when using my toilet.

1.24) I personally explained that the plumbing was making me sick, that the Unit was at a Substantial risk for the transmission of an infectious illness, a breeding grounds for disease and that the Conditions were exacerbating my mental illness.

1.24) There response to us was that Pierce County Jail was an Old Building, the situation that we were complaining about was a 30-year mistake and that Pierce County won't Pay for the issue to be fixed so we as a unit would just have to deal with it.

1.25) When I complained that we weren't even given cleaning supplies to clean the contaminated areas, Defendants laughingly waved us away and told us to stop talking. (It was as if we didn't exist)

1.26) I then requested that I be given a Grievance, but that request was denied by cluster officers, other residents also requested grievances in which they were informed that the issue was not grievable because the Jail was already aware of the issue, the grievance would just be rejected they stated.

1.27) On 6-16-2020, I filed a grievance (#530524) under, "Staff Treatment of Inmates," because they would not allow me to Grieve concerning not getting Cleaning Supplies or Plumbing issues. (Enclosed with Complaint is Grievance # 530524)

1.28) In that grievance, Plaintiff Davey claimed that he was trying to clean his cell and requested a rag in which Officer "Olsen" had told him 5 minutes. Plaintiff went to spray his room with disinfectant anticipating wiping everything he sprayed down. Officer "Olsen" had Plaintiff wait 30 minutes standing at the door, so Plaintiff asked again. Officer "Olsen" then tells Plaintiff that it was too Late, and Plaintiff responded that, "you said 30 Minutes ago to wait," Officer "Olsen" then responded back to Plaintiff by sticking his thumb in his ears and sticking his tongue out at him giving Plaintiff Davey a Sad Face. Pierce County Official failed to address that issue for several Months (1-23-21)

1.29) Those that suffer from high anxiety and Panic attacks, (as Plaintiff Davey) need space to walk or pace. When Sewage water Splashes onto the floor and residents are denied cleaning supplies, we are left to walk and pace in those Conditions, leaving us residents to have to walk on contaminated floors with socks and slippers and passing that sewage from our socks to our bed. (As explained before, I had to use my Jail issued T-Shirt to clean contaminated areas, and only twice was I given a cleaning spray to disinfect surrounding areas of my cell between May 12th 2020 to June 18th 2020)

1.30) The unit that I was Placed in was a Breeding Ground for Disease.

1.31) From the time that I entered the cell on May 12th 2020, to the time that I left to Competency Restoration Services on June 18th 2020, I complained every day to unknown named officers about the way the toilets were shooting out other residents bodily waste and how the Unit and living quarters (Cell) I was forced to live in exposed us to strong odors coming from the Sewer. Plaintiff also complained about the presence of insects coming from those sewage drainpipes that could possibly carry diseases.

1.32) Those Cluster officers would tell Plaintiff and other residents that they were not plumbers and had no way to solve the issues.

1.33) Also to note, Pierce County Jail Rotates their officers every day to different units, which made it harder for me to keep track of names.

1.33) On June 18th, 2020, Plaintiff Davey was transferred too Competency Restoration Services. On September 15th, 2020, Plaintiff Davey was transferred back to Pierce County Jail.

1.34) On September 16th, 2020, Plaintiff Davey was moved back into 3 North A (Mental Health Unit).

1.35) When arriving at the Cell "10-11," I noticed that the person (My New Cellmate) that was occupying the cell had his face covered with a towel and the toilet seat covered with a lid from a box that inmates

store their property in. I asked the Cluster officer if i could get some type of cleaning supplies to clean the cell and I was once again told that it was not my time to receive cleaning supplies.

1.36) The cell smelled really bad, and my new cellmate explained to me that he would try to read a book or take a nap and bodily waste would Backflush into the cell and splash all over the place, so he covered the toilet with the lid and tried to cover his face with a towel because of the stench. He also explained to me that he stopped asking for cleaning supplies because he was tired of getting told "NO." (This was something that I was already aware of.)

1.37) The ongoing plumbing issue continued in 3 North A Unit, us residents of 3 North A continued to press the issue for Cluster officers to give us cleaning supplies, but as stated before, we were always told that it was not our time and that we would receive cleaning supplies at the designated time officers put them in the Unit, something that never happened.

I also complained to Cluster officers during this time that another inmate had threatened to harm us (Beat my Cellmate and I up) if our bodily waste continued to Backfill into his room. We were told by the officers that they had no control over the plumbing issues and that I had to talk to Mental Health on trying to move cells.

1.38) Mental Health Social Workers moved me to Cell 18 so that I could cope better by myself.

1.39) During our weekly visits from our Mental Health Providers, (Thursday) I would explain to them that I was waking up dizzy and not feeling good every morning, I would try to explain the situation about the plumbing but again they would always Segue the issue and try to say that it may be a complication with my Medication. They changed my medication several times because of my constant headaches, dizziness, and vomiting and always seemed to blame it on the medication and not the fact that we were being exposed to high degrees of foul odor and sewage.

1.39) The problem with them saying it was a medication problem is the fact that when I was at the Yakima Competency Restoration Center, the medications were not causing me to have any problems, I was doing well on them.

1.40) On October 7th, 2020, "Formal Inspection," I once again brought the Conditions up with Captain B. Sutherlin, Lieutenant Dobson and T. Pearson, also present was Sgt. Mastandrea, explaining to them that our unit constantly reeks of a foul odor that was coming from the sewage and that we were getting sick from the odor. I also explained to them that our toilet situation was not getting any better and that my toilet was continuing to overflow with other resident's human waste and that flies, and mosquitos were coming from the sewage drains.

1.41) We were once again told that Pierce County and the Jail were aware of the issue and that it would not be fixed at this time, explaining to us that it was the way the Jails Plumbing was designed and that we would have to deal with it.

1.42) As the Conditions Persisted, many residents including myself used store bought shampoo and soap that was purchased from the store commissary and also used their Jail house undergarment t-shirt to wipe contaminated areas.

1.43) I and other residents continued to request Grievances but we were continually denied.

1.44) On October 28th, 2020, yet another "Formal Inspection," I made sure that my voice was heard loud and clear when Inspection Officers came in.

I informed them that the Conditions that they had us living in were Exposing us to Raw Sewage and that I was going to write Disability Rights Washington. Defendants B. Sutherlin, Lieutenant Dobson, and Deputy T. Pearson told me, "Do what you got to do," and went on with saying once again that, "Its an old building," "Stop coming to jail if you don't like being here."

1.45) In November of 2020, I tried reaching out to Disability Rights Washington about our unit's condition (they received my letter 11-18-21), in which they sent me a copy of the Jail House Lawyers Handbook. Enclosed is their second response to me. But that response states both times that I reached out to them.

1.46) On November 18th 2020, yet another "Formal Inspection," I didn't even get a word out before the three Defendants, B. Sutherlin, Dobson, and T-Pearson informed the unit that we were to stand by our doors and not talk, they informed us that if anyone was to bring up any of the issues that have already been discussed that disciplinary action would be taken, and then they looked directly at me and said, "Got that Mr. Davey," they then went on to tell our unit while we were standing at our cell doors that, "we are aware of the issues you have been complaining about, the issue is a constructional issue that happened when they built the Jail and that it was not going to be fixed at this time"

1.47) They also informed us that giving us Cleaning Supplies was not a Policy, but a Privilege designated by the Cluster Officer at their disposal. (Further proof of this statement was recorded on Electronic Kite when I asked the Duty Sgt. If I could get the Policy for handing out Cleaning Supplies, in which Sgt. Ake responded that there was no set policy for cleaning supplies.

1.48) Sometime between Nov-Dec I asked the cluster officers if I could get a copy of the Grievance Policy, and within an hour an officer slid the policy underneath my cell door. I requested the policy because Disability Rights Washington informed me that I needed to request that information so that I could understand the Grievance Policies and ask for the proper way to file a grievance so that my complaints would not be rejected. (Enclosed is the Grievance Procedure I was handed)

1.49) According to the Grievance Procedure (1) I was to request resolution assistance from the unit Correction Deputy. If not resolved, proceed to Step#2.

Over and over, I requested Grievances, but I was denied by deputies stating that they no longer handed out grievances.

(2) Submit a Kite to the appropriate supervisor (see list below) assigned to address the inmate's issue. According to the grievance Procedure there was no supervisor for Maintenance issues (Please see Document "Filing a Grievance.")

1.50) On or around December 13th or 14th, 2020, I spoke with an officer (Erwin) who seemed to listen to me, I showed him the Documents from Disability Rights Washington about getting a grievance form and he informed me that I could Electronically Kite the Duty Sgt. to Request a Grievance for the Maintenance.(On the Grievance Policy it states that you do not have to kite the Duty Sgt.) Officer "Erwin" also brought in cleaning supplies after I informed him that we have been using our t-shirts to clean our contaminated areas.

1.51) Officer "Erwin" explained to me that he has been working in the New Jail and hasn't worked in the Main Jail (Where I was located) for months and that everything because of Covid-19 has complicated things in the Jail, but he said that shouldn't be the excuse for Officers to be lazy and not do their Jobs, informing me that is was the Officers Duty to place cleaning supplies in our unit no matter what.

1.52) On December 14th, 2020, by the permission of Officer "Erwin" I requested a grievance from the Duty Sgt. on electronic Kite request #554196, "can I get a grievance... It is about the unsafe environment that our sewer is causing us.

1.53) Cluster Officer "Starks" and Sgt. D. Herbison came into our unit to ask us what the Problem was, we explained that our toilets are overflowing every time another person in the adjoining cell flushes their toilets and that we are constantly being told that we cannot get Cleaning Supplies to clean up those contaminate areas. We also informed them of the foul odor of Raw Sewage that permeated the air constantly.

1.54) Later that day, officer "Starks" returned and informed me that I was to dump buckets of water down the Sewer Drainage pipes closets.

1.55) As I was dumping water down the Drainpipes, I discovered that there were mouse traps that had dead mice on them in two of the drainage pipes port closets. I grabbed a Piece of Toilet Paper and threw the mice away and was told by the officer that next time I should ask him before I grab anything that doesn't belong to me.

1.56) On 12-15-2020, I get a response back from Sgt. D. Herbison stating that, "Officers are researching the issue. The deputies report "Nothing Unusual."

1.57) I was once again denied a grievance, apparently according to Sgt. D. Herbison, not getting cleaning Supplies, Toilets Backflushing, and the permeating foul odor was "Nothing Unusual" for us inmates in 3 North A.

1.58) After receiving that reply from Sgt. D. Herbison, I was called out for a Dentist Appt. because of complication that happened with my Dentist exam and I crossed ways with Sgt. Ake while waiting for an Officer to transport me. I explained to Sgt. Ake that I keep getting denied grievances even from the Duty Sgt. and I want Pierce County to fix our units sewer problems.He promised that he would send me a grievance if I Sent him a request because he was working grievances that day, but he also stated to me

that the situation has been an ongoing problem and many people have tried to get it fixed but have failed.

1.59) At the next available time I requested a grievance electronically to the Duty Sgt. and SGT. Ake issued me Grievance #554280. (Enclosed is Grievance#554280)

1.60) In the Grievance Dated 12/16/20 it asks, "Have you tried to solve this problem by speaking with a Corrections Officer?" I Checked the "YES" Box. To the right of that Box it asks, "If Yes, Name Of Corrections Officer: "Inspection Staff, Sgt. Several times with Correction Officers who just seem to ignore or laugh at the issue."

1.61) In my Initial grievance that had taken me months to receive, I raised these issues:

1. Health Concern with Unit Toilets
2. Last 4 Inspections I Raised the Issue
3. Toilets Shooting out another Inmates Feces
4. I awake during am Feeding to other people's Fecal Matter dried all over my toilet
5. A smell develops in our cells and whole unit
6. Having to eat next to someone else's feces is inhumane
7. Cleaning contaminated areas every day without proper P.P.E (Disinfectant, Gloves, Rags)
8. The issue is with the whole unit, every toilet
9. Asking for cleaning supplies and having to wait hours
10. Inmates threatening each other (myself) because of the plumbing
11. Not only Health Concern but a Safety Concern
12. Counties most vulnerable
13. Move us until our unit is fully compatible for us to Live in.

1.62) On 12-18-21 a plumber "Jason" came into our unit and directly to my Cell, he puts a Plumbers Tool (Snake) down my toilet and then exits my cell and tells me that, "Everything is good, Toilets Not Clogged"

1.63) I went on to explain to him that everything is not good, that every time the adjoining cell flushed the toilet (10-15 Times Daily) that person's Bodily fluid would enter my cell and at times overflow into my room or accumulate over night to the point where I was getting Dizzy, threw up and couldn't eat.

1.64) I went on to explain that at times when I'm using my own toilet, bodily waste would rise to the top and touch my Buttocks and Private area, something that has happened over 50 times. I went on to tell him that at one time my toilet overflowed with bodily waste from the other resident's toilet while I was using it.

1.65) Maintenance man "Jason" acknowledged that we had a Plumbing issue explaining to us that, "it was a shitty situation, a 30-year mistake and in order for them to fix the issue they would have to reconstruct the whole plumbing, something that Pierce County will not fund."

1.66) Jason went on to tell me and other residents in their cell windows that 3 North A was the worse for the Plumbing, telling us that the plumbing is directly connected to the 4th floor and drains down to our unit, given us not only each others bodily fluids but those from the 4th floor as well. Maintenance man then Gives a little laugh and states, "you know how the Saying goes, All Shit Roles Down Hill," and he leaves the unit.

1.67) Within an hour a Cluster Officer Slides my Grievance (#554280) under my cell door with a Response from Sgt. Mastandrea. That response States:

Maintenance was notified and responded to your cell to evaluate the issue with your toilet. Your cell toilet and the ones connected to your cell plumbing were checked and snaked. After maintenance was done with your cell, I talked to you and you stated that you were satisfied with their response and explanation of the problem.

1.68) Here's the problem with that Statement, Sgt. Mastandrea never spoke to me after Maintenance left and nowhere did I ever mention to anyone including the maintenance man that I was Satisfied with the explanation of the Problem. This was a fabricated statement.

1.69) Within 5 minutes of getting that response back I filed an appeal explaining in the Appeal that Sgt. Mastandrea never came to speak to me about the issue being resolved and that I never was satisfied with the response from the Maintenance Man, explaining in the Appeal that I was more upset at the fact that Maintenance was making jokes, acknowledging that our issue was a "Shitty Situation"

1.70) I also complained in my appeal that there was "NO" response about us residents not getting cleaning supplies to clean contaminated areas and that our unit was expelling foul odors that was making me sick to the point that I was waking up Dizzy, throwing up and not being able to eat. I also mentioned in my appeal that Social Workers seem to change topics on me, instead of believing that my conditions were from the odor, they explained it away by suggesting it was a Medication problem.

1.71) Ironically, after handing my appeal to Cluster officers it was never seen again, it never made it to its destination. It was either lost in transfer or it was purposely rejected. (I tend to believe that it was purposely rejected, See Statement in Paragraph 1.26)

1.72) After many more days of not getting a response from my appeal, I started writing many entities explaining our condition at the Pierce County Jail including Disability Rights Washington a second time, Human Rights Commission x2, ACLU, U.S. Department of Justice, Connelly Law Offices and Southern Poverty Law Center. (Enclosed are their responses)

1.73) Also in my response from Disability Rights Washington I received a 1983 Complaint form and information on how to write a Complaint to the Courts.

1.74) In January of 2021, I started to Write my 1983 Complaint, but I waited until January 15th, 2021, to send it in anticipating a response back from my Appeal by the Jails higher authority. (That didn't happen)

1.75) Many Residents, starting in January of 2021 and ending on March 15th 2021 wrote Declarations/Statements about their experience in 3 North Unit, but many were missing from my documents after receiving them when I was transferred to my main institution in the Department Of Corrections. The Declarations/Statements I do have are from the Following Residents:

1. Mark Erisman
2. Justin Mohler
3. Ezra Fleming-Ralston
4. Roger Woodard
5. Reid Wasankari
6. Taldon Maddok

(Enclosed are their Statements)

1.76) In January of 2021, I also Electronically Kited Medical (2-3 times) indicating that I wanted to get checked to make sure that I didn't have any type of medical issues due to being exposed to Raw Sewage. (Those Electronic Kite request # are 559138, 558187) Medical Staff Responded back both times with, "There is no Medical indication for this request."

1.77) I also sent Mental Health an Electronic Kite explaining that we are continuing to be exposed to Raw Sewage, (#566119) and Mental health Responded, "Certain Parts Of Your Body Are Always Exposed To Raw Sewage."

1.78) On January 14th, 2021, I was hired as our Units "Unit Worker," by Officer Wilson. I was told by Officers that day that I would be receiving cleaning supplies to clean the unit at 9pm, in which I was to clean the Unit Day Room and the Shower. During the Time I was a Unit Worker I requested that I get cleaning supplies during the day so that we could clean our rooms, but I was told that Cleaning supplies were to be handed out at 9 pm when all residents were in their rooms, in which they indicated new covid Protocols. (At that time, I would hide cleaning disinfectant in my cup to take into my room and distribute some to other inmates that asked.)

I also want to note that I was concerned about the Unit next to ours, (3 North B Unit) a unit similarly Built as 3 North A but residents are Solitary Confined in the unit. I noticed that the Unit/Shower were not being cleaned at all and I requested many times that I go over to that Unit to at least Sanitize the Showers.

1.79) On January 15th, 2021, I sent in my Initial 1983 Complaint. The Complaint was filed on 1-25-21 as a Multi-Person Complaint, Ezra Fleming-Ralston being the second Plaintiff on the Complaint.

1.80) At the end January of 2021, I was informed by Cluster Officer (Because I complained) to send Electronic Kites to the Duty Sgt. asking why my appeal had not been heard. I then sent more request at the permission of Cluster officers asking for Grievances because my appeal was not answered. On February 2nd, I received a response back from Captain Ganga indicating to me that his office had not received my Appeal.

1.81) On February 3rd, 2021, Pierce County Jail went on Mandatory Quarantine Status, us residents in 3 North A were left in our Cells for 4 days, "No Showers", suffering in our contaminated cells without any

Movement, no Day-room where we could get away from the Toilets constantly back-flushing and smelling.

1.82) On February 5th, 2021, Ezra Fleming-Ralston received a response back from the Clerk of the United States District Courts indicating that he needed to Sign and Date his name on the Complaint form. Ezra then requested that he be able to get Copies of the Complaint.

1.83) On February 6th, 2021, Officer Peter's came into our unit to collect the Documents from Ezra Fleming-Ralston. Because the documents had my name Justin Davey v. Pierce County Council on them, Officer Peter's had thought that Ezra was making legal copies for me, (Inmates are not allowed to make legal copies for other inmate's) so he decided that he was going to read the complaint. After reading the complaint and seeing that Ezra Fleming-Ralston was in the Complaint, Officer Peter's takes the complaint and makes copies of it.

1.84) Ironically, on February 7th, 2021, Sgt. Ake and Sgt. Mastandrea came to our unit. They then Unlocked my door and asked me what was going on, (Indicating that they were aware of my 1983 Complaint) I informed them that for months I have been complaining about the toilets, I even showed them empty cells that had Raw Sewage all over the place because the Sewage was back-filling from other cells, I told them that my Appeal was lost and that nobody seems to care.

1.85) I explained to both Sgt's. that we as a unit continued to tell Captain B. Sutherlin, Lieutenant Dobson, and CO T. Pearson during "Formal Inspection" that our unit was disease ridden and we were having to use our clothing to clean up the contaminated areas but they always would Laugh us away and tell us that the issue was not going to be fixed because it was an old building and Pierce County want fix it and that we just had to deal with it.

1.85) Sgt. Mastandrea then took me to the side and told me personally that he was going to contact Captain Genga in Administration about the Issue.

1.86) On February 8th, 2021, Sgt Mastandrea returned to 3 North A unit and Pulled me out of my Cell and told me that he Contacted Captain Genga and that on February 10th 2021, Captain Genga was going to Personally come down during "Formal Inspection" and check on the issue that he informed him of, Sgt. Mastandrea also informed me that the "Formal Inspection" officers should have reported the issues that we were complaining about. I also showed Sgt. Mastandrea more cells that were disgusting.

1.87) I then reminded Sgt. Mastandrea that he disregarded my Inmate Grievance by lying on the document saying that I was Satisfied by the Maintenance man's explanation of the issue. Sgt. Mastandrea then informed me that he spoke to the maintenance man after the initial plumbing check and it was the maintenance man that suggested that I was Satisfied with the response, Sgt Mastandrea also informed me that the Maintenance Man also Jokingly said to him that, "all shit roles downhill" but he took it as a Joke.

1.88) On Wednesday, February 10th 2021, "Formal Inspection" Day, Captain Genga, Sgt. Mastandrea and Sgt. D. Herbison and Sgt. Ake, came into our Unit and captain Genga Pulled me out of my cell and asked

me to explain to him what was going on, I explained to him that for months we have been trying to get Grievances because the conditions we were living under were unhealthy for anybody to live in, but that this unit has Pierce County jail most vulnerable subjects, as I was explaining to him what was going on, I showed him the cell next to mine where the Resident was sleeping, the cells toilet and surrounding area was covered in feces, the bed itself in our cells are within 2-3 feet from the toilet and we are made to lay our heads closest to the toilet because of the way the Bunks are made.

1.89) I went on to tell Captain Genga that Sgt D. Herbison denied me a grievance and informed me that these conditions were not unusual on electronic kites, I informed Captain Genga that other Captains, Lieutenant and Officers ignored our pleas to get the plumbing fixed by saying that it's an old building, and that pierce county will not fix the Issue and that we just had to deal with it. I informed Captain Genga that my grievance was lost or purposely rejected, and I was not gaining any resolution to the problem anywhere.

I explained to Captain Genga that we are left to use our t-shirts to clean contaminated areas because we are denied cleaning supplies during times of need.

1.90) Captain Genga Informed me that he would personally contact Maintenance and figure out a way to get the issues fixed, as for the cleaning supplies, Captain Genga informed me that they would be having a staff meeting about getting cleaning supplies to us when we needed.

1.91) Later that Day, I sent Two Paper Kites, One to Captain Genga, and one to Sgt. Ake. (Enclosed are those Kites) In the Kites I asked if there was any way that I could get copies of the emails that they sent to maintenance, and I also asked if I could get a report about what was seen. Again, enclosed is their response on Paper Kite.

1.92) On 2-11-21, Sgt. Smith brought an email to 3 North A Cluster Officers, that email had Chief Patti Jacksons name on it. The Email discussed what officers were to do. "Make sure officers flushed the toilets of Empty cells.

1.93) I witnessed a Cluster Officer rip that email up and State that he, "was not a Plumber."

1.94) Between 2-12-21 and 3-16-21, not one Officer adhered to Chief Jackson's Email, and cleaning supplies were withheld from us because of the Covid Mandatory Lockdown Status.

1.95) On 2-12-21, Sgt. Ake brought in Sani-Sticks to eliminate the odor of Raw Sewage.

1.96) On 2-13-21, Sgt. Ake came to check if the Sani-Sticks worked, they did not. Also, I would like to note that Sgt. Ake bought those Sani-Sticks himself, explaining that the unit's sewers were really bad and that there was no indication on Maintenance fixing the issue. (I was the one that helped Sgt. Ake put the Sani-Sticks down the pipe drains.)

1.97) On 2-20-21, Cluster Officer, Mrs. Herbison worked in unit 3 North A and her first words when she entered our unit was, "Wow, it smells really bad." She and the other officer took a bucket of water and

dumped water down the sewage drains. That Practice doesn't work. (I also Dumped water down the drains a second time that day)

1.98) Later, on 2-20-21, Cluster Officer Mrs. Herbison said that she sent a Complaint to Maintenance (around 2pm) because the Odor of Raw Sewage was so bad.

1.99) On 2-22-21, during breakfast feeding around 4:30am, I overheard C-O Kline telling C-O Peck that some of the cell's toilets were disgusting.

1.100) On March 4th, 2021, I sent a message to Karen Beir (Manager of Mental Health) about our situation and if she could get Chief Jackson to come talk to us.

1.101) The response from Karen Beir said that she spoke to Sgt. Miller about our situation and that he would take care of it.

1.102) Ironically, on March 11th, 2021, Roger Woodard (One who wrote a Statement) requested a Grievance, Sgt. Miller came into our unit and asked what the problem was.

1.103) Roger Woodard and I, Davey, showed Sgt. Miller 3 cell's, each cell had "Bodily Waste" full to the Rim, splashed on the Rim.

1.104) When Sgt. Miller began to leave, Roger Woodard asked Sgt. Miller about the Grievance he requested.

1.105) Sgt. Miller Stated, "Because this is the first time, I am hearing about this, I am going to Contact Maintenance before we move any further."

1.106) At this point it was obvious that nothing was being done to remedy the Sewer condition and the ongoing unsanitary issues, we had complained on numerous occasions, had Administration Officers look into the problem and nothing was being done, it seemed as if they were just trying to see if time went by that we would just stop with the complaints.

1.107) On March 12th, 2021, I Davey Pled guilty and on March 16th, 2021, I Justin Davey was sent to the Department of Corrections.

1.108) Enclosed in this Complaint is a Medical Kite that I put in when I got to the Department of Corrections, indicating that I was in need of seeing a doctor because of some of the concerns and issues I was having, please read Inmate Medical kite while I was in the Department of Corrections. (Pierce County Medical refused to see me)

Exhaustion Of Legal Remedies

1.109) Plaintiff Davey used the Inmate grievance procedure available at the Pierce County Jail to try and solve the Problem. After many months of being denied grievances, on December 16th, 2020 Plaintiff Davey presented facts relating to this complaint. On December 18th, 2020, Plaintiff Davey was sent a

response with a fabricated statement saying that Plaintiff was Satisfied with the explanation of the issues. On December 18th, 2020, Plaintiff appealed the response of the grievance and on February 2nd, 2021, Plaintiff became aware that his Appeal had not made it to Administration. Plaintiff requested grievances from Administration but was denied those requests.

Injury

Since Defendants failed to Cure, abate, remedy, or break-up the custom or practice, Plaintiff had been left to suffer from headaches, vomiting, stomach-aches, dizziness, exacerbated psychological problems. I went without eating due to said conditions and had constant Diarrhea. I also Feared of genital infections and damage to my oxygen system because of shortness of breath.

Defendants' Pattern and Practice of Deliberate Indifference to the Inhumane Conditions at the PCJ

A. Pierce County

1.110) Pierce County, through its Sheriff's Office, the County Council, and the Legislature (collectively in this section "Pierce County"), has engaged in a pattern and practice of deliberate indifference to the inhumane and unconstitutional conditions at the PCJ.

1.111) Pierce County has systematically and deliberately ignored, or failed to take reasonable measures to address, the visibly deplorable and unconstitutional conditions at the PCJ. As described in detail in this Complaint, areas of the walls and floors, are contaminated by Human Waste that Overflows from the Facilities own Plumbing issue. Men are forced to live in each other's filth and waste without proper Policies or Procedures to obtain Cleaning Supplies which led inmates including Plaintiff to use Jail issued T-Shirts to wipe Contaminated areas down. The Unit is Constantly Permeated with foul Odor that Officers themselves complain about and it also seems that the facility is Infested with Rodents as described by plaintiff of him throwing away two dead mice that were caught in a mouse trap.

1.112) Pierce County has also systematically and deliberately ignored, or failed to take reasonable measures to address, the complaints about the deplorable and unconstitutional conditions raised by the men detained in the PCJ. For months, the men detained at the Pierce County Jail were denied Grievances, even being told that the Deprivation was, "Nothing Unusual." When finally given a Grievance, the issue was pushed aside, being told that the issue was something Pierce County will not fund."

1.113) Finally, Pierce County has systematically and deliberately ignored, or failed to take reasonable measures to address two 1983 Complaints Dated back to 2012.

See Steele v. Kerr, 2012 U.S. Dist Lexis 28769: Plaintiff alleges the cells in the Pierce County Jail are Cold, Filthy, and Unsanitary. He complains the TOILETS BACK-UP and are Unsanitary. These allegations, if true, state a claim for violations of the Eighth Amendment.

See also Meyer-Clemmons v. Karr, 2012 U.S. Dist Lexis 28798: Plaintiff Claimed that another inmate's waste is, "Bubbling Up" in my toilet.

Although both Complaints were dismissed so that the Plaintiffs could exhaust remedies, it didn't eliminate the fact that Pierce County and said Defendants were put on Notice about said conditions and failed to respond.

1.114) These uninhabitable, and hazardous conditions are the product of decades of neglect and the refusal by the County to adequately maintain the PCJ. As stated in Plaintiffs Complaint, Defendants B. Sutherlin, Captain Dobson, Deputy T. Pearson and Maintenance Man "Jason" all reported that the conditions were a 30 year mistake and that Pierce County would not Fund the Money to Reconstruct the Units Plumbing.

B. Defendants Ed Troyer, and Patti Jackson

1.115) Defendant Ed Troyer, as the Sheriff of Pierce County, is responsible for the care of persons detained in the PCJ. To fulfill this duty, the Sheriff's Office is empowered to request County funds from the Pierce County Legislature and to report to the Public Safety Committee of the Pierce County Legislature about the need for capital funding to repair, maintain, and renovate the Pierce County Jail Facility.

1.116) Defendant Patti Jackson, as Chief of the Internal Operation of the Sheriff Dept. Correction Bureau, is charged with oversight of corrections for the Pierce County Sheriff's Office and is responsible for protecting and preserving the health and welfare of persons detained in the PCJ and designing and implementing policies, procedures, and practices to ensure that the facility is maintained in a sanitary condition.

1.117) Defendants Ed Troyer and Patti Jackson are charged with enforcement of all Washington State law and Pierce County laws and regulations designed to preserve the health and welfare of persons detained in the PCJ.

1.118) Defendants Ed Troyer and Patti Jackson knew or should have known of the visibly deplorable and unconstitutional conditions at the PCJ.

1.119) Defendants Ed Troyer and Patti Jackson knew or should have known of the complaints raised by the men detained at the PCJ about those conditions and their injuries arising from those conditions.

1.120) Finally, Defendants Ed Troyer and Patti Jackson knew or should have known of the fact that the conditions of the PCJ had been deteriorating over the better part of the last decade and would only become worse without appropriate remedial efforts. Ten years ago, two inmates took into their own hands to file 1983 complaints against the Sheriffs Department Complaining of Unsanitary Condition at the PCJ including that the Toilets were "Bubbling Up" with others waste, and that the Toilets "Back-Up" and are Unsanitary. (See Citation Paragraph 1.113) Further, Officers of Different Ranks and also the Pierce County Maintenance themselves admitted that the issue was a 30-year mistake caused by the poor Construction of the Building.

1.121) Despite their knowledge of the unconstitutional conditions at the PCJ, Defendants Ed Troyer and Patti Jackson have engaged in a pattern and practice of deliberate indifference to those conditions and the harms plaintiff has suffered as a result of those conditions.

1.122) Defendants Ed Troyer and Patti Jackson breached their duty of care owed to persons detained in the PCJ by permitting the deplorable conditions at the PCJ to persist. This breach was the direct and proximate cause of the harms suffered by Plaintiff detained in the PCJ.

C. Defendants B. Sutherlin, Dobson, T. Pearson

1.123) Defendants B. Sutherlin, Dobson, and T. Pearson Personally Participated in said Deprivations. Officers cannot deliberately ignore a serious medical condition of or risk of serious harm to a person in custody. Plaintiff has alleged that Defendant Officers were aware of the Constitutional Violation, had an opportunity to intervene, and chose not to do so. Instead of reporting the Constitutional Violations to the appropriate Entities outside of Pierce County, Defendants B. Sutherlin, Dobson, and T. Pearson Participated in said deprivation with Pierce County, Ed Troyer and Patti Jackson by continuing to allow the Unsanitary Conditions that were happening at the PCJ.

D. Defendants D. Herbison and Mastandrea

1.124) Defendant D. Herbison personally participated in the constitutional deprivation when he personally investigated the issues stated in complaint and reported that the Deprivations were, "Nothing Unusual."

After Sgt. D. Herbison became aware of the Constitutional Violations, he had an opportunity to intervene and chose not to do so.

1.125) Defendant Mastandrea personally participated in the constitutional deprivations when he became aware of the Constitutional Violations and failed to intervene when he had the opportunity to do so. Defendant Mastandrea was the Officer who received Plaintiffs' grievance form dated 12-16-21. Defendant failed to respond to the Unsanitary Conditions, the denial of Cleaning Supplies and the request that they move the residents out of the unit until it was Safe to live in.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**(Deliberate indifference to past, current, and ongoing unconstitutional conditions
at the Pierce County Jail)
(Fourteenth Amendment to the United States Constitution)**

1.126) Plaintiff restates and realleges Paragraphs 1.2 through 1.108 as though fully set forth herein.

1.127) Defendants have subjected the named Plaintiff while he was detained in the PCJ as a pretrial detainee to cruel and inhumane prison conditions that damaged him and which posed an unreasonable and unjustifiable risk of harm to his health, and they have manifested and continue to manifest a pattern of deliberate indifference to this damage and risk of harm. The challenged conditions violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

SECOND CAUSE OF ACTION

**(Deliberate indifference to past, current, and ongoing unconstitutional conditions
at the Pierce County Jail)
(Eighth Amendment to the United States Constitution)**

1.128) Plaintiff restates and realleges Paragraphs 1.2 through 1.108 as though fully set forth herein.

1.129) Defendants have subjected the named Plaintiff while he was detained in the PCJ as a sentenced prisoner to cruel and inhumane prison conditions that damaged Him and which pose an unreasonable and unjustifiable risk of harm to His health, and they have manifested and continue to manifest a pattern of deliberate indifference to this damage and risk of harm. The challenged conditions violate the Eighth Amendment to the United States Constitution.

THIRD CAUSE OF ACTION

**(Deliberate indifference to past, current, and ongoing unconstitutional conditions
at the Pierce County Jail)
(Due Process Clause of the Washington State Constitution)**

1.130) Plaintiff restates and realleges Paragraphs 1.2 through 1.108 as though fully set forth herein.

1.131) Defendants have subjected the named Plaintiff while he was detained in the PCJ as a pretrial detainee to cruel and inhumane prison conditions that damaged Him and which pose an unreasonable and unjustifiable risk of harm to His health, and they have manifested and continue to manifest a pattern of deliberate indifference to this damage and risk of harm. The challenged conditions violate the Due Process Clause of the Washington State Constitution.

FOURTH CAUSE OF ACTION

(Negligence and Ministerial Negligence)

1.132) Defendants Pierce County, Ed Troyer, and Patti Jackson, B. Sutherlin, Dobson, D. Herbison, Mastandrea, and T. Pearson at all relevant times, oversaw the enforcement of the laws and regulations of Washington State and Pierce County to protect the health, welfare, and safety of persons detained in the PCJ on a daily basis. The individual Defendants failed to intervene to ensure properly functioning correctional facilities or to ensure that the facilities met the most minimal of standards for humane conditions as required by the laws and regulations of Washington State and Pierce County.

1.133) The aforementioned acts and omissions of Defendants Pierce County, Ed Troyer, and Patti Jackson, B. Sutherlin, Dobson, D. Herbison, Mastandrea, and T. Pearson amount to negligence and ministerial negligence, which directly and proximately caused the harms suffered by the named Plaintiff who was exposed to the conditions described in this Complaint.

1.134) A Person Deprives another of a Constitutional Right within the meaning of Section 1983, if He does an affirmative act, participates in another's affirmative acts, or omits to perform an act which He is legally required to do that causes the deprivation of which the Plaintiff Complains. West v. Atkins, 487 U.S. 42, 48, 108 S. Ct. 2250, 101 L. Ed. 2d 40

PRAYER FOR RELIEF

1.135) WHEREFORE, Plaintiff request this Court to:

- a. Declare that subjecting the Plaintiff to the conditions described herein violates the Eighth and Fourteenth Amendments to the United States Constitution and the Due Process Clause of the Washington State Constitution and constitutes negligence and ministerial negligence under Washington State law.
- b. Enjoin Defendants, and their successors, from subjecting the men in the PCJ to unsanitary, unhealthy, and unsafe conditions, and require that a remedy be formulated, subject to the Court's approval and modification, if necessary, to end the inhumane conditions at the PCJ.
- c. Award Plaintiff Davey who was exposed to the conditions described herein at the PCJ reasonable actual and compensatory damages of \$2,000 (Dollars) Per Day that Plaintiff was held in said conditions against each Defendant, jointly and severally, to compensate Plaintiff for the deprivation of his constitutional rights and all consequences thereof.
- d. Award Plaintiff who was exposed to the conditions at the PCJ described herein reasonable punitive damages of the amount of \$2,000 (Dollars) Per Day that Plaintiff was held in said conditions against each of the individual Defendants.
- e. Award Plaintiff who was exposed to the conditions at the PCJ described herein damages for the denials of their right to be free from cruel and unusual punishment and right to due process.
- f. Retain jurisdiction in this case until the unlawful conditions, practices, policies, acts, and omissions complained of herein no longer exist and this Court is satisfied that they will not recur.
- g. Plaintiff Seeks a Jury Trial on all issues triable by Jury.
- h. Plaintiff also seeks recovery of the cost in this suit, any additional relief this court deems just, proper, and equitable.

Dated December 20th, 2021

Respectfully Submitted,
Justin Davey
13602 Golden Given Rd. E
Tacoma Wa. 98445

Verification

I have read the foregoing complaint and hereby verify that the matters alleged therein are true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Tacoma, Washington on December 20th, 2021

Certificate of Service

On, December ^{21st} 2021, I hereby Certify that I electronically filed the foregoing Second Amended Complaint and further documents with the Clerk of the court using the CM/EFC system which will send notification of such filing to the following:

Frank Cornelius

frank.cornelius@piercecountywa.gov

Signed This Day ^{21st} Day of December 2021

Davey, Justin

Justin Davey